

SCHOOL COMMUNITY COUNCIL POWERS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies powers of a school community council.

Highlighted Provisions:

This bill:

- ▶ provides for an override of a school district's or local school board's disapproval of certain plans and programs developed by a school community council if all the parent and guardian members of the school community council vote in favor of implementing the plan or program;

- ▶ provides for judicial review of a school district's or local school board's decision;

and

- ▶ provides for an award of costs and reasonable attorney's fees as determined by the court for a party who prevails against a school district or local school board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1-606.5, as last amended by Chapters 210 and 324, Laws of Utah 2002

53A-1a-108.5, as enacted by Chapter 324, Laws of Utah 2002



53A-16-101.5, as last amended by Chapter 166, Laws of Utah 2005

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-1-606.5** is amended to read:

53A-1-606.5. Reading achievement in grades one through three -- Monitoring -- Reporting -- Additional instruction.

(1) (a) The Legislature recognizes that:

(i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;

(ii) there is an ever increasing demand for literacy in the highly technological society we live in;

(iii) students who do not learn to read will be economically and socially disadvantaged;

(iv) reading problems exist in almost every classroom;

(v) almost all reading failure is preventable if reading difficulties are diagnosed and treated by no later than the end of the third grade; and

(vi) early identification and treatment of reading difficulties can result in students learning to read by the end of the third grade.

(b) It is therefore:

(i) the long-term goal of the state to have every student in the state's public education system reading on or above grade level by the end of the third grade; and

(ii) the short-term goal of the state to have 90% or more of all third graders reading on or above grade level by the end of the third grade in 2006.

(c) (i) The State Board of Education, through the superintendent of public instruction, shall annually report on progress towards achieving the goals established in Subsection (1)(b).

(ii) The information shall be reported in the school performance report required under Section 53A-3-602.5, beginning with the 2002-03 school year, and include the following for each school district and elementary school:

(A) the number and percent of all students reading on or above grade level at the end of the first, second, and third grades;

(B) the annual reading achievement growth from the prior year and cumulative reading achievement growth from the base year of 2001-02 in the percent of students reading on or

above grade level for each year;

(C) those schools that reach the 90% reading achievement goal or achieve a sufficient magnitude of gain each year as determined by the State Board of Education from the 2001-02 base year or do both; and

(D) those elementary schools that fail to achieve a sufficient magnitude of gain each year as determined by the State Board of Education from the 2001-02 base year.

(d) The State Board of Education, through the superintendent of public instruction, shall determine as part of the U-PASS testing program:

(i) the appropriate statewide tests to assess reading levels at the end of each year in the first, second, and third grades;

(ii) an appropriate standard or cut score on each assessment for determining grade level reading mastery; and

(iii) the actual percent of students reading on or above grade level in the first, second, and third grades at each public elementary school as required under Subsection (1)(c)(i) by dividing the headcount enrollment of students reading on or above grade level at that grade by the headcount enrollment of students in the building at that grade on the date that the reading assessment is administered.

(2) Local school boards shall annually review the U-PASS data regarding reading at school and district levels and shall work with districts and schools to review and revise plans as needed to meet the goal set in Subsection (1)(b).

(3) (a) Each school district shall require the elementary schools within its district boundaries to develop, in conjunction with all other school planning processes and requirements, a reading achievement plan at each school for its kindergarten, first, second, and third graders to reach the reading goals set in Subsection (1)(b).

(b) The reading achievement plan shall be:

(i) subject to Subsection (3)(e), developed under the direction of the school community council or a subcommittee or task force created by the school community council; and

(ii) implemented by the school's principal, teachers, and other appropriate school staff.

(c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goals.

(d) Each reading achievement plan shall include:

(i) an assessment component that:

(A) allows only the principal, teachers, and other appropriate school staff to identify those students who are reading below grade level;

(B) uses U-PASS and local assessment information throughout the year to determine students' instructional needs; and

(C) is consistent with the exemption provisions of Subsection 53A-1-603(3)(c) regarding such students as students with disabilities or limited English proficiency;

(ii) an intervention component:

(A) that provides adequate and appropriate interventions focused on bringing each student up to reading at or above grade level and which would permit retention in the grade level of a student reading below grade level based on a joint determination made by the principal or the principal's designee, the student's teacher, and the student's parent;

(B) based on best practices identified through proven researched-based methods;

(C) that includes parental participation; and

(D) that, as resources allow, involves a reading specialist; and

(iii) a reporting component consistent with the data to be included in the school performance report required under Section 53A-3-602.5.

(e) In developing or reviewing a reading achievement plan, a school community council or subcommittee or task force of a school community council may not have access to data that reveal the identity of students.

(4) (a) The school district shall [approve each school's plan prior to its implementation and] review each plan annually[:] and approve or disapprove each plan.

(b) If a school district disapproves a reading achievement plan, the school community council may override the decision of the school district if all the parent and guardian members of the school community council vote in favor of implementing the plan, except as provided in Subsection (4)(c).

(c) If a school district disapproves a reading achievement plan on the basis that the plan may be in violation of law and provides a school community council a written legal opinion explaining the reasons why the plan may violate law, the school community council may not override the school board's decision.

(5) A school shall implement and provide ongoing support for a reading achievement plan approved by the school district or the school community council pursuant to Subsection (4)(b).

(6) (a) Review of a school district decision under Subsection (4) may be sought in the district court with jurisdiction in the county in which the school district is established by filing a petition for review of the decision within 20 days of the school district's decision.

(b) The district court shall review the matter de novo.

(c) As used in this section, "de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.

(d) The district court shall set aside the school district decision if it is found to be based upon a clearly erroneous interpretation or application of the law.

(e) In an action brought under this Subsection (6), a party who prevails against the school district shall be awarded its costs and reasonable attorney's fees as determined by the court.

Section 2. Section **53A-1a-108.5** is amended to read:

53A-1a-108.5. School improvement plan.

(1) (a) Each school community council shall annually evaluate the school's U-PASS test results and use the evaluations in developing a school improvement plan.

(b) In evaluating U-PASS test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) Each school improvement plan shall:

(a) identify the school's most critical academic needs;

(b) recommend a course of action to meet the identified needs;

(c) list any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(d) describe how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program monies received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement.

(3) The school improvement plan shall focus on the school's most critical academic

needs but may include other actions to enhance or improve academic achievement and community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) (a) The [school improvement plan shall be subject to the approval of the] local school board of the school district in which the school is located[;] shall annually review each school improvement plan and approve or disapprove the plan.

(b) If a school board disapproves a school improvement plan, the school community council may override the decision of the school board if all the parent and guardian members of the school community council vote in favor of implementing the plan, except as provided in Subsection (5)(c).

(c) If a local school board disapproves a school improvement plan on the basis that the plan may be in violation of law and provides a school community council a written legal opinion explaining the reasons why the plan may violate law, the school community council may not override the school board's decision.

(6) (a) Review of a local school board decision under Subsection (5) may be sought in the district court with jurisdiction in the county in which the school district is established by filing a petition for review of the decision within 20 days of the school district's decision.

(b) The district court shall review the matter de novo.

(c) As used in this section, "de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.

(d) The district court shall set aside the local school board decision if it is found to be based upon a clearly erroneous interpretation or application of the law.

(e) In an action brought under this Subsection (6), a party who prevails against the local school board shall be awarded its costs and reasonable attorney's fees as determined by the court.

~~{(6)}~~ (7) (a) A school community council may develop a multiyear school improvement plan, but the plan must be presented to [and approved annually by] the local school board[;] annually.

(b) The school board shall approve or disapprove the multiyear plan, and a school community council may override the school board's decision as provided in Subsection (5).

[~~(7)~~] (8) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by:

(i) the local school board; or

(ii) the school community council pursuant to Subsection (5)(b);

(b) provide ongoing support for the council's plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

Section 3. Section **53A-16-101.5** is amended to read:

53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) There is established the School LAND (Learning And Nurturing Development) Trust Program for the state's public schools to provide financial resources to enhance or improve student academic achievement and implement a component of the school improvement plan.

(2) (a) The program shall be funded each fiscal year:

(i) from the Interest and Dividends Account created in Section 53A-16-101; and

(ii) in the amount of the sum of the following:

(A) the interest and dividends from the investment of monies in the permanent State School Fund deposited to the Interest and Dividends Account in the immediately preceding year; and

(B) interest accrued on monies in the Interest and Dividends Account in the immediately preceding fiscal year.

(b) On and after July 1, 2003, the program shall be funded as provided in Subsection (2)(a) up to a maximum of an amount equal to 2% of the funds provided for the Minimum School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

(c) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of School LAND Trust Program monies for the administration of the program.

(3) (a) The State Board of Education shall allocate the monies referred to in Subsection

(2) annually for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter as follows:

(i) school districts shall receive 10% of the funds on an equal basis; and

(ii) the remaining 90% of the funds shall be distributed on a per student basis, with each district receiving its allocation based on the number of students in the district as compared to the state total.

(b) Each school district shall distribute its allocation under Subsection (3)(a) to each school within the district on an equal per student basis.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board may make rules regarding the time and manner in which the student count shall be made for allocation of the monies.

(4) Except as provided in Subsection ~~[(7)]~~ (8), in order to receive its allocation under Subsection (3), a school shall have established a school community council under Section 53A-1a-108.

(5) (a) The school community council or its subcommittee shall develop a program to use its allocation under Subsection (3) to implement a component of the school's improvement plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) The school may develop a multiyear program~~[-but]~~.

(ii) Annually, the program shall be ~~[presented and]~~ approved by the school community council and reviewed by the local school board of the district in which the school is located ~~[annually and as a prerequisite to receiving program funds allocated under this section].~~

(iii) The school board shall approve or disapprove the program.

(iv) If a school board disapproves a school's program for the use of school trust monies,

the school community council may override the decision of the school board if all the parent and guardian members of the school community council vote in favor of implementing the program, except as provided in Subsection (5)(b)(v).

(v) If a local school board disapproves a school's program for the use of school trust monies on the basis that the plan may be in violation of law and provides a school community council a written legal opinion explaining the reasons why the program may violate law, the school community council may not override the school board's decision.

(vi) A school shall receive its allocation of school trust monies if the school's program for the use of school trust monies is approved by:

(A) the school board; or

(B) the school community council pursuant to Subsection (5)(b)(iv).

(6) (a) Review of a local school board decision under Subsection (5)(b) may be sought in the district court with jurisdiction in the county in which the school district is established by filing a petition for review of the decision within 20 days of the school district's decision.

(b) The district court shall review the matter de novo.

(c) As used in this section, "de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.

(d) The district court shall set aside the local school board decision if it is found to be based upon a clearly erroneous interpretation or application of the law.

(e) In an action brought under this Subsection (6), a party who prevails against the local school board shall be awarded its costs and reasonable attorney's fees as determined by the court.

~~[(6)]~~ (7) (a) Each school shall:

(i) implement the program as approved by the school community council and approved by:

(A) the local school board; or

(B) the school community council pursuant to Subsection (5)(b)(iv);

(ii) provide ongoing support for the council's or its subcommittee's program;

(iii) meet school board reporting requirements regarding financial and performance accountability of the program; and

(iv) publicize to its patrons and the general public on how the funds it received under

276 this section were used to enhance or improve academic excellence at the school and implement
277 a component of the school's improvement plan, including the results of those efforts.

278 (b) (i) Each school through its council or its subcommittee shall prepare and present an
279 annual report of the program to its local school board at the end of the school year.

280 (ii) The report shall detail the use of program funds received by the school under this
281 section and an assessment of the results obtained from the use of the funds.

282 [~~(7)~~] (8) (a) The governing board of a charter school shall prepare a plan for the use of
283 school trust monies that includes the elements listed in Subsection (5).

284 (b) The plan shall be subject to approval by the entity that authorized the establishment
285 of the charter school.

286 [~~(8)~~] (9) (a) A school community council and a governing board of a charter school
287 may not be required to:

288 (i) send a letter to legislators or other elected officials on the school's use of School
289 LAND Trust Program monies as a condition of receiving the monies; or

290 (ii) report to the State Board of Education or any local school board on whether any
291 letters were sent to legislators or other elected officials on the school's use of School LAND
292 Trust Program monies.

293 (b) Subsection [~~(8)~~] (9)(a)(i) does not apply to the annual report to the local school
294 board required by Subsection [~~(6)~~] (7)(b).

Legislative Review Note
as of 2-10-06 9:49 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note**School Community Council Powers***16-Feb-06***Bill Number SB0199***3:12 PM*

State Impact

No fiscal impact to the state. School Districts could incur costs for possible attorney fees and court costs under provisions of the bill.

Individual and Business Impact

None

Office of the Legislative Fiscal Analyst